

**Objection Deadline: January 7, 2010**

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*Attorneys for Nicholas Palevsky*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION.

Plaintiff,

V.

**BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,**

Defendant.

Adv. Pro. No. 08-01789 (BRL)

## SIPA Liquidation

### **OBJECTION TO TRUSTEE'S DETERMINATION OF CLAIM**

Nicholas Palevsky, by and through his undersigned counsel, hereby files this Objection to the Trustee's Determination of Claim and respectfully represents as follows:

1. This Objection concerns investments made in Bernard L. Madoff Investment Securities (“BLMIS”) by Ascot Partners L.P. (“Ascot Partners”) and Gabriel Capital L.P (“Gabriel Capital”) on behalf of Mr. Palevsky.
2. On June 27, 2009 Mr. Palevsky timely filed a claim for securities in the amount of \$570,925.66 for losses attributed to the investment in BLMIS made on his behalf by Ascot Partners, attached hereto as Ex. A.

3. On June 27, 2009 Mr. Palevsky timely submitted a claim for securities in the amount of \$392,487.72 for losses attributed to the investment in BLMIS made on his behalf by Gabriel Partners, attached hereto as Ex. B.
4. On December 8, 2009 Irving Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* ("Trustee") issued a Notice of Trustee's Determination of Claim for Claim Number 012125 ("Determination Notice"), attached hereto as Ex. C.
5. As set forth in the Determination Notice, the Trustee denied Mr. Palevsky's claim on the grounds that he had no account with BLMIS, and was therefore not a customer of BLMIS as defined in 15 U.S.C. 78lll (2).
6. Mr. Palevsky submits this objection to oppose the Trustee's determination of his Claim No. 012125 as set forth in the Determination Letter. To the extent that the Trustee's interpretation of the definition of "Customer" is determined to be incorrect or improper in other proceedings before this Court, Mr. Palevsky requests to be treated as all other similarly situated persons in any final order determining that the Trustee has misinterpreted the "Customer" definition. Mr. Palevsky reserves all of his rights in such event.

Dated: January 6, 2010

Respectfully submitted,  
K&L Gates LLP



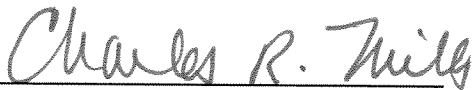
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of January, 2010, I submitted a true and correct copy of the foregoing OBJECTION TO TRUSTEE'S DETERMINATION OF CLAIM, to the Clerk of the Court via Federal Express Priority Overnight Delivery for filing and transmittal of a Notice of Electronic Filing (NEF) to all attorneys of record who are ECF registrants.

I also certify that on this 6<sup>th</sup> day of January, 2010, I caused to be served a true and correct copy of the aforementioned document, via Federal Express Priority Overnight Delivery, on Irving H. Picard, c/o Baker & Hostetler, LLP, 45 Rockefeller Plaza, New York, New York 10111.

  
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Charles Roe Mills, Esq.